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AMAZON.COM SERVICES LLC

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DWIGHT MALLOY, on behalf of himself
and all others similarly situated;

Plaintiffs,

vs.

AMAZON.COM SERVICES LLC,

Defendant.

Case No. 2:22-cv-00286-ART-VCF

**ORDER
TO EXTEND TIME FOR THE PARTIES TO
SUBMIT STIPULATED DISCOVERY PLAN
AND SCHEDULING ORDER PENDING
COURT'S RULING ON DEFENDANT'S
MOTION FOR CERTIFICATION FOR
INTERLOCUTORY APPEAL (ECF NO. 34)**

[THIRD REQUEST]

Defendant AMAZON.COM SERVICES LLC ("Amazon") and Plaintiff DWIGHT MALLOY ("Plaintiff"), by and through their counsel of record, hereby stipulate to extend the deadline to file the Stipulated Discovery Plan and Scheduling Order from the current deadline of May 15, 2023 [ECF No. 39] until fourteen (14) days after the Court rules upon Defendant's Motion for Certification of Interlocutory Appeal Under 28 U.S.C. § 1292(b) or, in the Alternative, Motion to Certify Questions to the Nevada Supreme Court [ECF No. 34]. This is the third request to extend the deadline for submission of the Stipulated Discovery Plan and Scheduling Order.

1 On March 2, 2023, after hearing oral argument, the Court denied Defendant's Motion to
2 Dismiss the Amended Complaint (the "Motion to Dismiss"), which sought to dismiss the entirety of
3 Plaintiff's claims. [ECF Nos. 22; 30]. Thereafter, on April 3, 2023, Defendant filed its Motion for
4 Certification of Interlocutory Appeal Under 28 U.S.C. § 1292(b) or, in the Alternative, Motion to
5 Certify Questions to the Nevada Supreme Court (the "Motion for Certification"). [ECF No. 34]. On
6 May 1, 2023, Plaintiff filed his Response to the Motion for Certification. [ECF No. 40]. Defendant
7 intends to file a Reply in Support of the Motion for Certification by the May 22, 2023, deadline, after
8 which time the parties anticipate a ruling upon the Motion for Certification. [ECF No. 35].

9 It is well recognized that "[c]ourts have broad discretion in managing their dockets." *Byars v.*
10 *Western Best, LLC*, No. 2:19-CV-1690-JCM-DJA, 2020 WL 8674195, at *1 (D. Nev. Jul. 6, 2020),
11 citing *Clinton v. Jones*, 520 U.S. 681, 706-07 (1997). In exercising such discretion, "courts are guided
12 by the goals of securing the just, speedy, and inexpensive resolution of actions." *Id.*; *see also*, Fed. R.
13 Civ. P. 1.

14 Like *Byars, supra*, here the parties agree that the deadline for submission of the Stipulated
15 Discovery Plan and Scheduling Order should be extended pending the Court's ruling upon the Motion
16 for Certification. Should the Court grant the Motion for Certification, the parties anticipate review of
17 the Court's denial of Defendant's Motion to Dismiss by the United States Court of Appeals for the
18 Ninth Circuit or alternatively, the Nevada Supreme Court. Accordingly, the parties agree that
19 submission of a Stipulated Discovery Plan and Scheduling Order to commence discovery pending the
20 Amazon's Motion for Certification would cause unnecessary expense to the parties and potentially log
21 the Court's docket with unnecessary discovery disputes and/or motion practice. Consistent with the
22 foregoing, the parties agree they will be in a better position to discuss the necessary scope of discovery
23 that will be needed, if any, and the amount of time necessary for both sides to gather evidence, once
24 this Court has ruled upon the pending Motion for Certification and, if granted, once the United States
25 Court of Appeals for Ninth Circuit, or Nevada Supreme Court, has reviewed Defendant's interlocutory
26 appeal.

27 For these reasons, the parties believe it is in the interest of judicial efficiency and consistent
28 with Rule 1 to submit a Stipulated Discovery Plan and Scheduling Order after the Court rules upon

1 the Motion for Certification. Should the Court deny the Motion for Certification, the parties propose
2 to submit the Stipulated Discovery Plan and Scheduling Order fourteen (14) days after such denial.
3 Should the Court grant the Motion for Certification, the parties agree that within twenty-one (21) days
4 they will (a) meet and confer about appropriate timing for submission of the Stipulated Discovery Plan
5 and Scheduling Order and (b) submit an additional stipulation outlining their proposal for timing of
6 the Stipulated Discovery Plan and Scheduling Order.

7 **THEREFORE, IT IS HEREBY STIPULATED** by and between Plaintiff and Defendant that
8 the deadline for the parties to submit a proposed Stipulated Discovery Plan and Scheduling Order shall
9 be extended from May 15, 2023, until after the Court rules upon the pending Motion for Certification
10 as follows:

11 a. Should the Court deny the pending Motion for Certification, the Stipulated
12 Discovery Plan and Scheduling Order will be due fourteen (14) days after such denial;

13 b. Should the Court grant the pending Motion for Certification, the parties agree
14 that within twenty-one (21) days they will (a) meet and confer about appropriate timing for submission
15 of a proposed Stipulated Discovery Plan and Scheduling Order and (b) submit an additional stipulation
16 outlining their proposal for timing of the Stipulated Discovery Plan and Scheduling Order.

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1 The parties respectfully request the Court enter an order granting an extension as detailed
2 above. The parties attest that the instant request is made in good faith and not for the purpose of undue
3 delay.

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5 Dated: May 12, 2023
6 Respectfully submitted,

Dated: May 12, 2023
Respectfully submitted,

7
8 /s/ Don J. Foty

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13 DWIGHT MALLOY

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16 **IT IS SO ORDERED.**

17 Dated: May 15, 2023, 2023.

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20 UNITED STATES MAGISTRATE JUDGE